

The Vehicle Use Tax is imposed on the privilege of using, in this State, any motor vehicle as defined in Section 1-146 of the Code acquired by gift, transfer, or purchase. 625 ILCS 5/3-1001 (1996 State Bar Edition). (This is a GIL.)

July 30, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated July 12, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I have been provided with a copy of a General Information Letter dated January 27, 1998, a copy of which is attached hereto.

I was provided this letter in response to my telephone inquiry concerning whether the Illinois Vehicle Code would impose a tax on the transfer of a motor vehicle from an individual owner to a grantor-revocable trust under which the owner is the grantor, the trustee and the beneficiary.

The aforementioned General Information Letter responded to a fact situation in which the settlor, trustee and sole beneficiary of a revocable trust transferred title to a vehicle to his son. Therefore, that fact situation does not apply to the facts that are the basis of my inquiry.

In this situation the owner of the vehicle has created a grantor-revocable trust under which that individual is the sole beneficiary and trustee, and in effect has retained all equitable right, title and use of the assets contained within that trust. In my fact situation there is no gift, transfer or purchase to any third person and in this case the owner prior to the transfer retains all equitable right, title and use of the vehicle following the transfer to the grantor-revocable trust.

I would request that you give this your immediate attention and provide me with a General Information Letter on this letter.

Section 3-1001 of the Illinois Vehicle Code, 625 ILCS 5/3-1001 (1996 State Bar Edition), provides, in part, the following:

"A tax is hereby imposed on the privilege of using, in this State, any motor vehicle as defined in Section 1-146 of this Code acquired by gift, transfer, or purchase * * *. Except that the tax shall not apply

- (i) if the use of the motor vehicle is otherwise taxed under the Use Tax Act;
- (ii) if the motor vehicle is bought and used by a governmental agency or a society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes;
- (ii) if the use of the motor vehicle is not subject to the Use Tax Act by reason of subsection (a), (b), (c), (d), (e) or (f) of Section 3-55 of that Act dealing with the prevention of actual or likely multistate taxation;
- (iii) to implements of husbandry; (v) when a junking certificate is issued pursuant to Section 3-117(a) of this Code;
- (vi) when a vehicle is subject to the replacement vehicle tax imposed by Section 3-2001 of this Act;
- (vii) when the transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is a surviving spouse."

"Transfer" means "to convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically, to make over the possession or control of (as, to transfer a title to land); sell or give." Black's Law Dictionary (6th ed. 1999). A trust is a legal entity created by a grantor for the benefit of designated beneficiaries under the laws of the state and the valid trust instrument. A grantor trust is one in which the grantor *transfers or conveys* property in trust for his own benefit alone or for himself and another. *Id.*

Under the Illinois Vehicle Code, there is no exemption from the Vehicle Use Tax for motor vehicles acquired by trusts through gift, transfer, or purchase. Therefore, the acquisition of a motor vehicle from an individual to a trust, which is a separate legal entity, through gift, transfer, or purchase is a taxable transaction under Section 3-1001 of the Illinois Vehicle Code.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

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If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.